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C O N F I D E N T I A L SECTION 01 OF 03 YEREVAN 000473

SIPDIS

DEPARTMENT OF STATE FOR DRL, EUR/CARC, DEPARTMENT OF
JUSTICE FOR USDOJ/OPDAT (CHRISTOPHER LEHMANN)

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SUBJECT: RUNDOWN ON POST-ELECTION TRIALS OF OPPOSITIONISTS

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Classified By: Charge d'Affaires Joseph Pennington, reasons 1.4 (b/d).

SUMMARY

¶11. (C) Armenian authorities continue their post-election prosecution of oppositionists in the court of law. Approximately 150 people aligned with the opposition movement led by ex-President Levon Ter-Petrosyan (LTP) have been charged with crimes, with convictions resulting in all of the cases adjudicated so far. The authorities have targeted opposition activists, campaign managers, financial backers, and oppositionist allies. Although defense attorneys are making valiant efforts to uphold defendants' rights, judges and prosecutors are working hand-in-hand to secure convictions in each of the cases decided to date. That said, the trials might be sparking civic consciousness in a way that could not otherwise be achieved. END SUMMARY.

A BREAKDOWN OF THE DETAINED

¶12. (SBU) According to the official website of the Office of the Prosecutor General of Armenia as of May 30, 150 individuals have been charged with offenses under the Criminal Code stemming from the election, the civil disturbance of March 1 and its aftermath. Of those 150 persons, 49 are being held in preliminary detention (waiting for their cases to be sent to court), 64 others are in detention or under other preventive measures (waiting for their court cases to be adjudicated), and 33 are free on bond, having agreed not to travel abroad (or in some cases not to leave their city of residence). In addition, there are four individuals who are wanted by the police.

¶13. (C) The detainees and those wanted can be categorized into four main groupings: activists (60% of the detainees); middle-level campaign managers (15%); the top-tier figures of LTP's campaign (9%), including influential former officials (Gagik Jahangirian, the fired ex-Deputy Prosecutor General), main campaign investors (MP Khachatur Sukiasian, now a fugitive after having his parliamentary immunity stripped) and political strategists (Alexander Arzumanian, an ex-Foreign Minister); and members of the Yerkrapah Union (16%). Although the latter has seen its political influence ebb with time, the Yerkrapah Union is one of Armenia's two veterans' organizations comprising Karabakh war vets, and is chaired by ex-General Manvel Grigorian, former Deputy Minister of Defense, whom President Kocharyan fired April 2

for his alleged support of LTP.

CHARGED ARTICLES

¶4. (C) After the fatal March 1 clashes between LTP supporters and security forces, the authorities mounted a large-scale prosecution against dozens of LTP supporters. In the multiple indictments, the authorities allege that LTP and his supporters failed to accept their defeat in the election, did everything to make sure the international community questioned the legitimacy of the results, disseminated mistrust towards the results in the society, and rallied with the intent to destabilize the political situation in the country, thus creating conditions for usurpation of power. Defense attorneys have argued that these "crimes" are within the framework of the constitutional rights of each citizen, but the courts have been dismissive of such complaints.

¶5. (SBU) Defendants have primarily been charged with the following offenses: Organization and Participation in Mass Disorders, Usurpation of State Power, Illegal Possession of Weapons and Ammunition, and Violence against State Officials. In addition, three defendants have been charged with crimes occurring on election day for Hindrance of Election Committee Activities.

¶6. (C) It is noteworthy that although several individuals have been charged with weapons or ammunition possession, not a single individual has been charged, as yet, with such possession at the March 1 rally that resulted in ten officially confirmed deaths. Many of those charged with weapons/ammunition possession are Karabakh war veterans who allied themselves with LTP before the election.

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SEETHING TRIALS

¶7. (C) Emboffs have attended many of these trials; it has become virtually the full-time work of our US DOJ Regional Legal Adviser and his FSN staff attorney. Almost all of the political trials have been well attended by defense supporters. At practically all of those held so far, angry demonstrations have occurred in the court room, as dozens of supporters shout out to the court, threaten the prosecutor, and otherwise engage in sometimes not-so-civil civil disobedience. At some trials, the supporters of the defendants have stood and applauded when defendants enter the courtroom, and remained seated when the judge enters, in pointed violation of court decorum. Often the protesters hold up signs with slogans or pictures of political prisoners. Judges and court personnel appear to have no experience with controlling their courtrooms, and they often give up their attempt to continue a trial if the crowd is unruly. The media is freely allowed to witness the proceedings, with cameras also allowed in the courtroom. (Comment: Despite the media presence, scenes of raucous support for defendants in the courtroom would be very unlikely to appear on TV given the Government's firm control over Armenia's electronic media. End Comment.)

EXECUTIVE BRANCH PRESSURE ON DECISIONS

¶8. (C) Notwithstanding the in-your-face public pressure, judges regularly rule for the prosecution because they know they would face a reprimand from the executive should they rule for the defense. The judges fear they would be removed from office, demoted, or otherwise punished should they rule for the defense; their fears are well placed, as it has often happened in the past when judges have returned acquittal

verdicts on routine criminal cases. According to defendants' supporters, many hearings are intentionally conducted in small courtrooms that cannot accommodate everyone who has come to support the defendants.

JUDGES AND PROSECUTORS WORKING HAND-IN-HAND

¶19. (C) In keeping with a long-standing Armenian institutional tradition, the judges who have been adjudicating the trials of oppositionists have been consistently obedient to the wishes of the prosecution. Defense attorneys have made numerous motions that have been denied repeatedly by all of the judges.

¶10. (C) For example, in one case the former Deputy Prosecutor General (DPG) and his brother were arrested for weapons possession and resisting arrest. The arrest occurred a day after the DPG had publicly expressed his support for LTP at an opposition rally. The two defendants were charged separately, although they had been arrested at the same time.

At the brother's trial, the defense attorney moved to add the DPG to the witness list, as he was present at the time of arrest. The prosecutor opposed this motion, however, as it was "not necessary to hear from that witness in order to prove the facts of the case." The court agreed with the prosecutor and denied the motion. (COMMENT: This is a clear example of how the deck is stacked against the defense, where even the most appropriate application of the defense is denied because it would make it more difficult for the court to justify its inevitable guilty verdict. This connivance by the prosecution and judiciary to deliver a conviction in every case is not a new phenomenon restricted solely to the trials of oppositionists. In the vast majority of criminal cases in Armenia, the judges favor the prosecution and very rarely the court acquits the defendant or otherwise contravenes the wishes of the prosecutor. In the cases against oppositionists, even such rare exceptions are not possible, and the judges so far have granted virtually all prosecution applications and denied virtually all defense motions. END COMMENT.)

¶11. (C) One further example demonstrates the lack of judicial independence. In one case, eight witnesses had alleged that the defendants had hindered election activities; thereafter six of the eight witnesses claimed that their purported statements as submitted into evidence by investigators had been forged by police, and they had not witnessed any such

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crimes. The two other witnesses had left Armenia for Russia. Notwithstanding these deficiencies in the prosecution's case, the judge refused to release the defendants from detention.

BREAKDOWN ON VERDICTS SO FAR

¶12. (C) Out of 26 individuals convicted so far, 16 have been sentenced to actual jail time, with ten others receiving suspended sentences. All of these ten pleaded guilty and expressed public regrets seemingly in exchange for the suspended sentence, obviating prison time. The sentences imposed so far range from one and a half years to six years of incarceration. (NOTE: The sentences that have been meted out so far are in keeping with standard Armenian sentences for such charges, which carry lower penalties than similar ones in the United States. END NOTE.)

GROUPS SUPPORTING DETAINEES

¶13. (C) Several civic groups have emerged or re-profiled

their activities into supporting the oppositionists detained in the aftermath of the March 1 clashes. Among them are the wives of detainees (coordinated by the Amcit wife of former Minister of Foreign Affairs Alexander Arzumanian), HIMA (NOW) youth movement, and Karabakh war veterans. Many of these groups have engaged in publicized hunger strikes in support of the detainees. Protest actions so far have taken the form of pickets in front of government buildings, youth marching through Yerevan dressed as inmates, signature drives, etc. The demonstrations have rarely fielded more than 100 people at any one time, which leaves them below the legal threshold that would require government permission to stage a rally or march.

COMMENT

¶14. (C) While at least a few of the opposition defendants are doubtless less than saintly, the prosecutions taken together have spotlighted the deep flaws of the Armenian criminal justice system at its worst. Emboffs have witnessed cases in which meticulously prepared defense attorneys systematically shredded flimsy cases lackadaisically presented by the prosecution, as all the prosecution's ostensible witnesses disavowed statements attributed to them. None of this matters; the judge always renders a guilty verdict. These prosecutions are politically motivated, and orchestrated as part of a comprehensive campaign to emasculate the leadership of the opposition, freeze its financial resources, and damage its operational capacities. Despite the authorities' efforts, however, the well-attended, well-publicized trials may be having the opposite effect, instead helping to ignite a civic consciousness that increasingly challenges authorities' hold on power. END COMMENT.

PENNINGTON